

COMMENT DRAFT

2007

Report On The Ten-Year Review Of Solid Waste Management Permits

Commonwealth of Virginia
Department of Environmental Quality

June 2007

2007 REPORT ON THE TEN-YEAR REVIEW OF SOLID WASTE MANAGEMENT PERMITS

Comment Draft – June 2007

EXECUTIVE SUMMARY

Under the Virginia Waste Management Act and the Solid Waste Management Regulations, no less than once every ten years, the Director must review and issue findings on the environmental compliance history of each permittee, material changes, if any, in key personnel, and technical limitations, standards, and regulations on which each active permit was based. This report presents the results of a review of all active solid waste management facility permits issued after June 30, 1997 but prior to July 1, 1998, as required by statute and regulation. One permit in this time frame has not closed and has been reviewed for this report. Six additional facilities were found to have been permitted prior to 1997 had not been reviewed and have been included for review in this report. Seven facilities that are to close this year or in 2012 under provisions of §1408.1.N. of the Code of Virginia were also included for review in this report.

Each permit review included both an environmental compliance history review and a technical review. The environmental compliance history review consisted of a compilation of the past ten years of inspection records. The findings include the number of inspections conducted each year and the number of alleged violations. The requirements for disclosure statements, including changes to key personnel, were among the criteria examined in the environmental compliance history review. The technical review compared the contents of the existing, individual permits to the contents now required for issuance of a permit. Over the years, the permitting standards have been changed by statute, and by amendments to the governing regulations in March 1993, May 2001, September 2003, and October 2005. The findings of the technical review identify the components, or modules, that are required in current permits but that have not been included in the existing, individual permits.

By statute, if the Director finds repeated material or substantial violations of the permittee or material changes in the permittee's key personnel that would make continued operation of the facility not in the best interest of human health or the environment, the Director shall amend or revoke the permit. Also, the Director may amend the permit to include additional limitations, standards or conditions when the underlying standards have been changed by statute or regulation, or as otherwise provided by law.

The Director is soliciting comments on the report and findings from facilities that are subject to the review. Comments from the public will also be accepted. The comment period closes at 5:00 p.m. on September 17, 2007.

Any permit amendment will take place in accordance with the Virginia Waste Management Act and the Virginia Administrative Process Act. The Director retains authority to revoke, amend, or suspend permits in accordance with applicable laws and regulations. The Director also retains authority to address violations of statutory, regulatory, or permit requirements by order or other remedy, including immediate action as necessary, in appropriate circumstances.

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AUTHORITY AND BACKGROUND

This *2007 Report on the Ten-Year Review of Solid Waste Management Permits* is issued pursuant to Virginia statutory and regulatory requirements.

The Virginia Waste Management Act, at Va. Code § 10.1-1408.1 E., requires the Director of the Department of Environmental Quality (Director and Department, respectively) to review and issue written findings on specific aspects of permitted solid waste management facilities at least once every ten years. The pertinent part of Va. Code § 10.1-1408.1 E. states as follows:

At least once every ten years, the Director shall review and issue written findings on the environmental compliance history of each permittee, material changes, if any, in key personnel¹, and technical limitations, standards, or regulations on which the original permit was based.

The same section of the Code addresses amendment or revocation of solid waste management permits based on the required review and findings:

If, upon such review, the Director finds that repeated material or substantial violations of the permittee or material changes in the permittee's key personnel would make continued operation of the facility not in the best interests of human health or the environment, the Director shall amend or revoke the permit, in accordance herewith. Whenever such review is undertaken, the Director may amend the permit to include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation or when any of the conditions in subsection B of § 10.1-1409 exist. The Director may deny, revoke, or suspend any permit for any of the grounds listed under subsection A of § 10.1-1409.

The Virginia Waste Management Board established by regulation that the first review of permits would address facilities in existence prior to July 1, 1991 and facilities permitted after July 1, 1991 would be reviewed prior to the ten year anniversary of permit issuance.² One solid waste management facility with a permit issued after June 30, 1997,

¹ "Key personnel" means the permit applicant and any person employed by the applicant in a managerial capacity, or empowered to make discretionary decisions, with respect to the solid waste operations. See Va. Code §10.1-1400.

² Virginia Solid Waste Management Regulations (VSWMR), 9 Virginia Administrative Code (VAC) 20-80-100.C.

but prior to July 1, 1998 has been reviewed for this report. Six additional facilities were found to have been permitted prior to 1997 that had not been reviewed; therefore, those have been included this report. Seven facilities that are to close this year or in 2012 under provisions of §1408.1.N. of the Code of Virginia are also reviewed in this report..

In accordance with the statute, the review included both an environmental compliance history review and a technical review.

ENVIRONMENTAL COMPLIANCE HISTORY REVIEW

The environmental compliance history review consisted of a compilation of information from the Department's inspection records. The information included the number of inspections conducted each year and the number of alleged violations. The requirements for disclosure statements, including changes to key personnel, were among the criteria examined in this review.

Staff from the Department's regional offices conducted environmental compliance history reviews for the facilities located in their region. Staff examined all available inspection records between 1997 and 2006. From this review, a simple tabulation was made of the number of inspections conducted and the number of alleged violations recorded. For consistency, worksheets were developed for conducting the reviews. The same worksheet was used for all types of facilities included in the review.

TECHNICAL REVIEW

The technical review compared the contents of the existing, individual permits for the facilities to the contents now required for issuance of a permit. Over the years, the permitting standards have been changed by statute, and by amendments to the governing regulations in March 1993, May 2001, September 2003, and October 2005.

Staff from the Department's Regional Offices and the Central Office conducted and proofread the technical reviews. In particular, the permits were reviewed to ascertain whether they contains the documentation required in a current solid waste management facility permit, as specified in the Virginia Solid Waste Management Regulations (VSWMR),³ including requirements of the Virginia Waste Management Act. The standards of VSWMR address the design, construction, operation, monitoring, closure, and post-closure maintenance for landfills and other solid waste management facilities, as necessary. Applicable permit elements, or modules, or portions of such modules, that are not included in existing, individual permits were identified during the review.

The statute requires the Department to review the "technical limitations, standards, or regulations on which the original permit was based." The findings of the technical review are only to identify the components, or modules, that would be required

³ 9 VAC 20-80-10, et seq.

to be included in a permit issued by the Department today that have not been included in the existing, individual permits. The technical review does not include a review of documents that facilities may have developed or submitted for approval in accordance with regulatory requirements, but that have not been included in the permit itself. Therefore, a notation in the technical review that a component or module is not included in a permit does not necessarily imply that a facility lacks a plan approved by the Department addressing that element or that the facility is out of compliance. It may mean, however, that the documents that have been developed, submitted, or approved are not entirely consistent with the current requirements for issuance of a permit.

Additionally, the department issues permit amendments on a routine basis. Information reflected on the Permit Review Checklist reflects contents of the permit on the date the permit was reviewed. Some permits may have been amended since the review of their permit was conducted. The Department will consider any additional amendments or modifications the Department has approved since reviewing the permit when considering criteria for amending permits.

As before, for consistency, a worksheet was developed for conducting the reviews. A separate worksheet, specific to the type of facility, was completed for each facility to document the content of the facility's permit compared to current requirements.

COMMENT PROCEDURE

The Director is soliciting comments on the report and findings from facilities that were subject to the review. This report does not discuss the merits of any alleged violations. Concerns about any alleged violation were addressed with regional compliance staff at the time the facility was notified of the alleged violation.

Copies of this report are being mailed individually to the facilities that were subject to the review. Comments from the public also were accepted. The comment period closed on September 17, 2007 at 5:00 p.m.

FINDINGS

The findings of the Ten-Year Permit Review are the product of the environmental compliance history review and the technical review. The written findings for individual facilities are contained in Appendices 1 and 2, as described below. Summary information is provided in Tables 1 and 2.

The findings of the environmental compliance history reviews for landfills are provided in Appendix 1, which contains a Compliance Review Worksheet for all landfills that are subjects of this report. The compliance criteria are listed in the first column of each worksheet. The number of inspections conducted at the facility by year is provided in the first two rows of each worksheet. The number of times an alleged violation was cited in the inspection reports for a particular year is displayed in the cell corresponding

to the criteria and year. Each worksheet also presents the average number of alleged violations per inspection.

A summary of the environmental compliance history review for all landfills reviewed is included as Table 1. It lists the number of inspections, the number of alleged violations, and the average number of alleged violations per inspection for all landfills subject to this report. Table 2 shows the total alleged violations and the total alleged violations per inspection for individual landfills. These tables show that some facilities have more instances of alleged violations than others do.

The findings of the technical reviews for landfills are provided in Appendix 2, which contains a Permit Review Checklist for each landfill subject to this report. The first part of the worksheet contains information on the landfill, the reviewer, and a history of permitting activities (amendments and variances) for the facility. It also contains a summary of the comparison of the existing permit to the current regulatory requirements. The remainder of the worksheet for each facility details the current requirement, whether that requirement is found in the existing permit, the source of the requirement, and comment.

AMENDMENT OR REVOCATION OF PERMITS

As noted, under the governing statute, if the Director finds material or substantial violations of the permit are being repeated or that material changes in the permittee's key personnel would make continued operation of the facility not in the best interest of human health or the environment, the Director shall amend or revoke the permit. Also, the Director may amend the permit to include additional limitations, standards or conditions when the underlying standards have been changed by statute or regulation, or as otherwise provided by law. Any permit amendment is subject to the requirements of the Virginia Waste Management Act, Va. Code § 10.1-1400, et seq., and the Administrative Process Act, Va. Code § 2.2-4000, et seq.

The Director retains authority to revoke, amend, or suspend permits in accordance with applicable laws and regulations. The Director also retains authority to address violations of statutory, regulatory or permit requirements by order or other remedy, including immediate action as necessary, in appropriate circumstances.

**Table 1- Total Alleged Violations
Landfills (Sanitary, CDD, and Industrial Landfills)**

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	TOTAL
Number of Inspections	4	4	4	12	12	7	4	1	4	30	82
Alleged Violations	3	0	0	0	0	3	6	0	0	33	45
Average Alleged Violations	0.75	0	0	0	0	0.43	1.5	0	0	1.1	

Ten-year Average Alleged Violations per Inspection: 0.549

**Table 2. Individual Facilities Alleged Violations
Sanitary, CDD and Industrial Landfills**

Facilities Name	Permit No.	DEQ Region	Total Alleged Violations	Average Alleged Violations Per Inspection
Prince William County Sanitary Landfill	029	NVRO	0	0
Petersburg City Landfill	228	PRO	0	0
Greensville County Landfill	405	PRO	7	1.75
Chesterfield County - Southern Area LF	402	PRO	No Inspection	NA
Simons Constructions Company Inc.	523	PRO	No Inspection	NA
Willie Cosby CDD Landfill	173	PRO	No Inspection	NA
Halifax County of - Sanitary LF & CDD LF	092	SCRO	10	5
Chase City Sanitary Landfill	025	SCRO	No Inspection	NA
Farmville Town of Landfill	195	SCRO	No Inspection	NA
Accomack County - Bobtown Southern LF	091	TRO	9	2.25
Avtex Fibers Inc	357	VRO	No Inspection	NA
Fluvanna County of - Sanitary Landfill	429	VRO	7	1.75
Frederick County Landfill	591	VRO	0	0
Martinsville City – Landfill	049	WCRO	0	0

Appendix 1 - Compliance Review Checklists for Landfills

Sanitary Landfills, Construction & Demolition Debris Landfills, and Industrial Landfills

*This appendix is also available as a separate download from the
Department's website.*

Appendix 2 - Permit Review Checklists for Landfills

Sanitary Landfills, Construction & Demolition Debris Landfills, and Industrial Landfills

*This appendix is also available as a separate download from the
Department's website.*

Note: The technical review does not include documents that facilities may have developed or submitted for approval in accordance with regulatory requirements, but that have not been included in the permit itself. Therefore, a notation in the technical review that a component or module is not included in a permit does not necessarily imply that a facility lacks a plan approved by the Department addressing that element or that the facility is out of compliance. It may mean, however, that the documents that have been developed, submitted, or approved are not entirely consistent with the current requirements for issuance of a permit. Facilities that lack current, facility specific permit modules remain subject to their existing permits, any approved plans, and the standards in the applicable regulations.